

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FILED

04 FEB 19 PM 3:50

MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO.: 8:03-CR-77-T-30-TBM

SAMI AMIN AL-ARIAN,
SAMEEH HAMMOUDEH,
GHASSAN ZAYED BALLUT,
HATIM NAJI FARIZ

**MOTION OF THE UNITED STATES
FOR AN EXTENSION OF TIME IN WHICH TO
PRODUCE THE ISRAELI DOCUMENTS IN DISCOVERY**

The United States of America by Paul I. Perez, United States Attorney, Middle District of Florida, hereby moves for an order extending the time in which to commence production of the "Israeli documents" for fourteen (14) additional days, and also explains why the documents cannot be disclosed at this time, and in support thereof, states a follows:

1. At times previous to this motion, the United States has announced that it has in its possession certain documents in the Hebrew language it has received from the Israeli government pursuant to a Mutual Legal Assistance Treaty (MLAT) request. These documents related to various acts of violence alleged to have been committed in the Middle East by members of the PIJ enterprise. The United States has decided to make some of these documents available as part of Rule 16 discovery. These documents include statements of witnesses, perpetrators and accomplices, medical reports of victims, bomb technician reports, news media accounts, and other related information.

458

2. The United States has also advised the Court that the documents cannot be released in discovery until permission is given by the Israeli government. The MLAT also provides that the sending state can attach conditions on the use of the documents it sends to the receiving state.

3. The Court Order on the requests for Bills of Particulars (Doc. 428), dated January 21, 2004, directed the United States to make all the Israeli materials available for inspection or copying by February 20, 2004, "or otherwise show cause why these materials cannot be disclosed." The following paragraphs constitute the cause why the Israeli documents cannot be disclosed in accordance with the Court Order.

4. The United States requests an additional fourteen (14) days before it commences production. The United States has been negotiating with the Israeli government to identify and address Israeli concerns. It is estimated that process will be concluded in two weeks. It is anticipated that as a result of these negotiations, the United States will seek a Rule 16(d)(1) Protective Order as to some of the Israeli documents, but the details of that Order have not yet been finalized. A further complication is that the Israeli government is conducting another review of the documents marked for production to ensure that they match the documents the United States proposes to produce in discovery. Certain personal information of the victims and witnesses is also being redacted during this review process. This process is partially completed, but is expected to take approximately four more weeks.

5. Thus, assuming the United States receives the necessary clearances from the Israeli government, we propose to commence production of the Israeli documents in two weeks.

6. Additional documents are still being received from the Israeli government. These documents have yet to be read, sorted, catalogued, indexed or redacted. Thus, regardless of whatever schedule is implemented, production will be an on-going process.

7. One added benefit of giving the United States additional time to commence production is that it will allow us to complete the revisions and updates to Index C, which has nearly doubled in length. This index, written in English, sets forth a description of the discoverable items. The current version of Index C no longer matches the Israeli documents as they have been sorted and placed in the separate boxes. So, if production were to commence today, it would be without an accompanying Index C.

Memorandum of Law

A request for a continuance or an extension of time in which to comply with a Court Order is addressed to the sound discretion of the Court.

herefore, for the foregoing reasons, the United States asks that its request for
(14) additional days to commence production of the Israel documents be
and that the United States be permitted to extend production over a four week
time.

Respectfully submitted,

PAUL I. PEREZ
United States Attorney

By:


Terry A. Zitek
Executive Assistant United States Attorney
Florida Bar No. 0336531
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6000
Facsimile: (813) 274-6246

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent
mail this 19th day of February, 2004, to the following:

William B. Moffitt, Esquire
Asbill Moffitt & Boss, Chtd.
The Pacific House
1615 New Hampshire Avenue, N.W.
Washington, DC 20009
Counsel for Sami Amin Al-Arian

Linda Moreno, Esquire
1718 E. 7th Avenue, Suite 201
Tampa, Florida 33605
Counsel for Sami Amin Al-Arian

Stephen N. Bernstein, Esquire
Post Office Box 1642
Gainesville, Florida 32602
Counsel for Sameeh Hammoudeh

Bruce G. Howie, Esquire
5720 Central Avenue
St. Petersburg, Florida 33707
Counsel for Ghassan Zayed Ballut

Kevin T. Beck, Assistant Federal Public Defender
Federal Public Defender's Office
400 North Tampa Street, Suite 2700
Tampa, Florida 33602
Counsel for Hatim Naji Fariz

Wadie E. Said, Assistant Federal Public Defender
Federal Public Defender's Office
400 North Tampa Street, Suite 2700
Tampa, Florida 33602
Co-Counsel for Hatim Naji Fariz



Terry A. Zitek
Executive Assistant United States Attorney